**IT IS SO ORDERED.**

**Dated: 6 December, 2016 01:36 PM**

JESSICA E. PRICE SMITH
UNITED STATES BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT**
**FOR THE NORTHERN DISTRICT OF OHIO**
**EASTERN DIVISION**

IN RE:

LAWRENCE JAMES WOHLEBER, JR,

DEBTOR

IN PROCEEDINGS UNDER CHAPTER 13

CASE NO. 14-11344

LAWRENCE JAMES WOHLEBER, JR,
PLAINTIFF.

v.

JENNIFER SKURKO, et al.
DEFENDANTS.

ADV. NO. 16-01106

JUDGE JESSICA E. PRICE SMITH

**ORDER GRANTING THE MOTION TO DISMISS OF JUDGE DEBRA BOROS**

The matter before the Court is the Motion to Dismiss filed by Defendant Judge Debra Boros (the "Motion"). Plaintiff Lawrence James Wohleber, Jr. opposes the Motion. On October 4, 2013, Plaintiff filed a Chapter 13 bankruptcy petition in this Court, Case No. 13-17042. Mr.

Wohleber alleges that Judge Boros knowingly violated the automatic stay that was in effect pursuant to 11 U.S.C. § 362(a) when Judge Boros presided over a contempt hearing regarding a marital property settlement in Lorain County Domestic Relations Court (Case No. 04DU063421) on October 8, 2013. This hearing resulted in Mr. Wohleber being held in contempt and incarcerated from October 8, 2013 until October 17, 2013. Mr. Wohleber is requesting damages for injury sustained.

The Motion contends that this Court lacks jurisdiction to hear this matter based on the Rooker-Feldman doctrine, and even if this Court has jurisdiction, that Judge Boros is immune from claims for money damages as a matter of law. A duly noticed hearing on the Motion was held on November 16, 2016.

This Court has jurisdiction to hear this matter. Actions to address potential violations of the automatic stay of 11 U.S.C § 362 are "core" proceedings over which a bankruptcy court has jurisdiction. *Amedisys, Inc. v. Nat'l Century Fin. Enters., Inc.* (*In re Nat'l Century Fin. Enters., Inc.*), 423 F.3d 567, 573–74 (6th Cir. 2005). Section 362 governs the automatic stay and provides in pertinent part:

> (a) Except as provided in subsection (b) of this section, a petition ... operates as a stay, applicable to all entities, of—
>
> (1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title;
>
> (2) the enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of the case under this title;
>
> (3) any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate;
>
> ....
>
> (6) any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the case under this title....

The contempt hearing was the continuation of a judicial process subject to the automatic stay.

However, even if proceeding with the hearing was a violation of the automatic stay, judges are generally immune from suit for money damages. *DePiero v. City of Macedonia*, 180 F.3d 770, 783 (6th Cir. 1999). This immunity can only be overcome in two ways: the act at issue is a not judicial act, or the judge acts in the complete absence of jurisdiction. *Id*. In his complaint, Mr. Wohleber does not allege that either of those circumstances exist, therefore he cannot recover money damages from Judge Boros.

Accordingly, without addressing whether the actions of Judge Boros constituted a violation of the automatic stay, because collection is prohibited due to judicial immunity, the Motion to Dismiss is granted for failure of the Plaintiff to state a claim upon which relief may be granted. Mr. Wohleber's objection is overruled.

**IT IS SO ORDERED.**